

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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Cape Light Compact)	D.T.E. 00-47-C
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RESPONSE OF NSTAR ELECTRIC TO DEPARTMENT BRIEFING QUESTION

Commonwealth Electric Company d/b/a NSTAR Electric (“NSTAR Electric” or the “Company”) files this response to the Briefing Question issued by the Department of Telecommunications and Energy (the “Department”) in the above-referenced proceeding, pursuant to a memorandum issued by the Hearing Officer on March 21, 2001. On December 4, 2000, the Cape Light Compact (the “Compact”) submitted to the Department a proposed energy plan to provide demand-side management/energy efficiency (“EE”) services pursuant to G.L. c. 164, § 134(b) to customers in municipalities covered in the Compact’s municipal aggregation plan (the “Energy Plan”).¹ Under its Energy Plan, the Compact proposes to begin delivery of EE services to customers on July 1, 2001.

The March 21 memorandum by the Hearing Officer posits the following question to interested parties for comment:

G.L. c. 164, § 134(a) makes reference to an “aggregated entity . . . not fully operational on the retail access date.” G.L. c. 164, § 134(b) makes reference to “a municipality . . . establishing a load aggregation program.”

¹ The Compact is composed of the Towns of Aquinnah, Barnstable, Bourne, Brewster, Chatham, Chilmark, Dennis, Eastham, Edgartown, Falmouth, Harwich, Mashpee, Oak Bluffs, Orleans, Provincetown, Sandwich, Tisbury, Truro, Wellfleet, West Tisbury, and Yarmouth, and the counties of Barnstable and Dukes County. On August 4, 2000, the Department approved the municipal aggregation plan for the Compact. Cape Light Compact, D.T.E. 00-47 (2000).

Please discuss what, if any, inconsistency arises between the use of the terms “fully operational” in § 134(a) and “establishing” in § 134(b).

Both § 134(a) and § 134(b) discuss the rights and obligations of municipalities “establishing” load aggregation programs (see, e.g., paragraph 4 of § 134(a) (“a...group of municipalities establishing load aggregation pursuant to this section, shall...develop a plan...detailing the process and consequences of aggregation”)). Following Department approval of a municipality’s load aggregation plan, G.L. c. 164, § 134(a) provides for a framework whereby customers of an “aggregated entity” that has not yet established a “fully operational” load aggregation program would have certain rights to purchase standard offer service from the local distribution company. G.L. c. 164, § 134(b) authorizes only those municipalities that are “establishing” a load aggregation program pursuant to G.L. c. 164, § 134(a) to adopt an energy plan, but does not necessarily require that all customers be offered power supply service before the energy plan may be implemented. Although the language in the two subsections deals with different issues, the briefing question raises important policy considerations with regard to the approval of an energy plan.

The statute expressly links eligibility to establish an energy plan and to access EE funds to “municipalities establishing a load aggregation program” pursuant to G.L. c. 164, § 134(a). The aggregation plan approved for the Compact, by its terms, permits the phase-in of power supply service to different customer classes over prescribed times. Under the Compact’s aggregation plan, large commercial/industrial and certain municipal customers were to have been phased-in to the Compact’s power supply program in December 2000; and additional municipal customers were to have been phased-in by the

end of March 2001. Cape Light Compact, D.T.E. 00-47, at 11 (2000). To date, NSTAR Electric does not have any record of customer enrollments in the Compact's power supply program.²

If an aggregation plan is not implemented in accordance with its terms, the aggregator would not be eligible for approval of an energy plan under G.L. c. 164, § 134(b). Correspondingly, if an implemented aggregation plan were terminated or the aggregator failed to comply with the terms of its approved aggregation plan, the Department would be required to revoke the energy plan and return responsibility for EE to the local distribution company. A sudden and unscheduled return of EE responsibilities to the local distribution company would be disruptive to customers and EE service-providers since contracts with service-providers would need to be established and the programs implemented.³ Consistent with the eligibility requirements set forth in the statute, the Department should ensure that the Compact is properly implementing its aggregation plan as approved by the Department, or it may be placed in the position of later having to revoke the Energy Plan and to order the transfer of responsibility to NSTAR Electric, with the additional costs and customer disruptions.

² Although the Compact's aggregation plan does seem to permit some delay in the service initiation date of the power supply program, such delays in the phase-in schedule do point to a need for the Department to monitor the implementation of the Compact's aggregation plan.

³ NSTAR Electric and the Compact have expended and will continue to devote considerable resources in planning for an orderly transition of responsibilities to the Compact so that customer disruptions can be minimized and EE service-continuity can be maintained. Once the transition has been completed, planning will have taken many months and will have required the parties to expend significant resources that could otherwise have been used to provide EE services.

Respectfully submitted,

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